



**MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING
OF MONDAY, AUGUST 21, 2006**

1. CALL TO ORDER

Mayor Wilson called the Regular Meeting of the Board of Aldermen to order at 7:30 p.m.

Following the Pledge of Allegiance, President of the Board Marilyn Ottenad gave the invocation.

2. ROLL CALL AND STATEMENT OF QUORUM

Roll call showed those present were Alderman Clement, Alderman Steinbrenner, Alderman Tullock, Alderman Ottenad, Alderman Wandishin, Alderman Diehl, Mayor Wilson and Attorney Gunn. A quorum was present.

3. APPROVAL OF THE MINUTES

a. Minutes of the August 7, 2006 Public Hearing regarding the 2006 rate of taxation

Alderman Tullock made the motion to approve the Minutes of the August 7, 2006 Public Hearing regarding the 2006 rate of taxation. The motion was seconded by Alderman Clement and carried unanimously.

b. Minutes of the August 7, 2006 Regular Board of Aldermen meeting

Alderman Ottenad made the motion to approve the Minutes of the August 7, 2006 Regular Board of Aldermen meeting. The motion was seconded by Alderman Clement and carried unanimously.

4. ESTABLISHMENT OF ORDER OF ITEMS ON THE AGENDA

Alderman Tullock recommended postponing Bill # 06-1779, item 9f. Alderman Clement said he was prepared to make the same statement to defer the Bill for at least two weeks. Alderman Wandishin asked to add a report from the Historic Review Commission.

Alderman Clement made the motion to approve the agenda as amended. The motion was seconded by Alderman Ottenad and carried unanimously.

5. CONSIDERATION OF PETITIONS AND COMMENTS FROM THE PUBLIC

a. Discussion of the position of American Automobile Association (AAA) regarding red light camera technology

Mr. Mike Wright, Vice President of Public Affairs of the American Automobile Association, spoke about red light cameras. He said their policy is very simple; they recognize the danger due to red light running, and AAA strongly supports traffic safety measures designed to reduce red light running, including reasonable traffic engineering improvements, such as signal timing studies, lane improvement, sight distance evaluation, and signage. He said AAA believes that such measures should be coupled with education, other law enforcement strategies that can help to reduce red light running and crashes. Mr. Wright said that AAA believes that law enforcement officers are the most effective means of deterring violations of traffic law regulations.

Mr. Wright said that AAA, does, however, recognize the potential of traffic infraction detectors, such as red light violation cameras, to perform critically important enforcement functions, thus promoting traffic safety. He said that in urban locations, with a substantial number of intersection crashes, there is evidence that red light running cameras are deterring traffic infractions. He said that in instances where red light running cameras are implemented, AAA believes the following safeguards should be in place: (1) Local agencies first should consider other operational improvements to intersections prior to installing red light cameras. (2) Red light camera technology should be used to promote traffic safety, not to generate revenues for governments or technology vendors. (3) Red light camera programs should be operated only under the direct supervision and control of state-certified law enforcement personnel. (4) Per-site payment to contractors should be prohibited. (5) Traffic signals and red light camera sites should comply with all applicable traffic engineering principles and standards, including minimum yellow light intervals. (6) Red light camera programs must focus on intersections that demonstrate a pattern of violation and crashes that can be reduced through the use of red light cameras. (7) Local agencies, not contractors, must be responsible for intersection selection and verifying proper camera installation and operation. (8) Strict evidentiary standards are in place to assure the fairness of procedures for issuing red light camera citations. (9) Reasonable enforcement cushions are provided so that blatant, rather than nominal or marginal infractions are targeted. (10) Penalties for infractions should be levied against the driver, not the owner. (11) Citations are mailed within ten days. (12) Legitimate privacy rights of individuals are protected, including destruction of photos as quickly as possible. (13) Implementation of enforcement via red light cameras should have an intensive public information campaign which informs motorists of the effort and begins prior to the effective date of enforcement in the jurisdiction. (14) Motorists should be informed that such devices are in use by prominently displaying signs indicating their operation in the jurisdiction.

Mr. Wright advised that the AAA has looked at a number of locations throughout the Country where there are red light cameras, most notably in New York City and Chicago. He said they are not totally enamored with what is going on in Washington, D. C., where they are not following some of the concerns he had just expressed.

Alderman Clement asked if the AAA has been involved with cities in the area who have installed the red light cameras in the last six to twelve months, and Mr. Wright said they have visited with the City of Arnold, which is the first City to implement the red light camera program. He said there are four intersections in Arnold with red light cameras, and they are all controlled by the State Department of Highways and Transportation.

Alderman Clement asked about data collection to validate the use of red light cameras, and Mr. Wright said there have been a number of studies done by the Insurance Institute for Highway Safety and the Federal Highway Administration, and in many instances, there are increases in rear-end type crashes with

primarily property damage. He said that in some instances there may be increases in other types of crashes. He said that red light cameras are not a panacea to solve intersection crashes; it depends on the selection of the intersection and what really is wrong with that intersection, and the dynamics of the drivers is constantly changing. He said he is sure everyone who drives recognizes that there are distractions, and it is a timing situation. Mr. Wright said that generally speaking, it can be anticipated in some instances, that rear end crashes would increase with the installation of red light cameras, but the cameras are designed to reduce the more serious type crashes, such as broadside crashes which offer little protection to the vehicle's occupants.

Alderman Ottenad said she had heard some complaints from residents about the City generating more revenue, as well as complaints that there would be more accidents and more damage. She asked if once the drivers get used to the red light camera intersections if the accidents go down.

Mr. Wright responded that there is a beneficial impact with the use of red light cameras. There may be more crashes, but the more serious ones are lessened.

Alderman Ottenad asked if most places using the red light cameras are issuing tickets to the owners or the drivers.

Mr. Wright said it is easier for the community to ticket the owner of the vehicle, but there is a mechanism where the owner of the vehicle comes in, says they were not the driver, and they tell who was the driver of the vehicle. He said then the jurisdiction goes after the driver.

There was a discussion about the need for an attorney's assistance in certain circumstances. Mr. Wright said they insist that a law enforcement officer issues the citation, not a clerk who might even be an employee of the vendor. He said there should be a lot of leeway; he doesn't think the objective is to see how many tickets can be written. Other situations were discussed whereby a ticket might not be appropriate, such as when an emergency vehicle is coming and the driver needs to get to the side of the roadway.

Alderman Ottenad said she thought one of the selling points is that the vendor sends out the tickets, and Mr. Wright said the vendor could send the tickets, but a law enforcement officer should review the situation to determine if there is a violation. He discussed the computer capabilities for an officer to review the possible violations.

Mr. Wright said there is an implementation guide on red light cameras from the Federal Highway Administration, and he would recommend the City Engineer take a look at that if the City is considering instituting a red light camera program.

b. Comments from the Public

Mr. James Bottorff, 580 Larksmore Court, asked that the City give some consideration to the use of red light cameras.

Ms. Pauline Bair, 305 Morewood Drive, asked about the lawsuits, and Attorney Gunn said not much has happened since the last meeting.

Ms. Bair asked about the serving of the summons at the last meeting, and Attorney Gunn said that there would be a motion to quash that service.

Ms. Bair asked about the other lawsuit, and Attorney Gunn said that when last discussed, it was set for trial in November, and a motion would be filed in the meantime, asking for summary judgment on Count Two, just as the summary judgment on Count One had been granted.

Ms. Bair asked Mayor Wilson if he had talked with the Concerned Citizens, and Mayor Wilson responded that the Concerned Citizens group is not involved with the lawsuit. He said that one person, who was a member of the Concerned Citizens, has withdrawn. Mayor Wilson advised that he had spoken with one of the individuals who is representing the other two, and he is arranging a meeting with the group of three to discuss the issue further. He said that discussions might be fruitful. He said he has expressed some ideas and his opinion that the development should go forward as soon as possible. He said he continues to meet with the plaintiffs, and he hopes that they will withdraw from the lawsuit.

Mayor Wilson said he had also met with Mr. Huff of Pace Properties, they talked about the Police Facility, and he had asked Mr. Huff to give alternatives to try to get things moving a little faster. He said there had been discussion about moving the Police Facility back on the original portion of land to get things moving quicker. He said Mr. Huff is still negotiating with his tenants and there are new businesses that are interested in the development.

Mayor Wilson said a very productive meeting was also held with Alderman Tullock, Alderman Ottenad, Director of Planning, Zoning and Economic Development Franz Kraitz and the business owners on the south side.

Ms. Bair asked about a timeframe, and Mayor Wilson said there is no timeframe. He said he had expressed interest to Mr. Huff that something needs to be done sooner than December.

Mr. Dwight Scharnhorst, State Representative of the 93rd District in which a portion of the City of Manchester is located, said he is visiting each of the community governments. He said he will help in any way he can. He said he would be in full support of the red light cameras, and if there is any way the State might be able to help fund the cameras, he would suggest the City look into that possibility. He said there are also several programs for seniors and children.

Representative Scharnhorst distributed business cards and presented a State Manual, along with flags which had flown over the Capitol building.

Mr. Robert Lopez, 1302 Mautenne, a trustee for Country Lane Woods Gascony, discussed the curbs along LaBonne Parkway and distributed some pictures which he explained. He said he understands there will be a 2007 budget discussion regarding rebuilding curbs along the LaBonne Parkway median. He talked about damage to cars. He thanked the City for curbing the end caps on LaBonne Parkway. He said the residents of Country Lane Woods I, II and Gascony, approximately 1000 residents, almost all use LaBonne Parkway to get to Big Bend or Manchester Road. Mr. Lopez said the medians are in bad shape, and they are costly to repair. He urged the Aldermen to vote for the completion of the LaBonne Parkway median during 2007.

6. REPORTS FROM THE MAYOR

a. Mayoral Report

Mayor Wilson said he had met with two citizens interested in doing community work. He met with one of the litigants of the Highlands lawsuit; he met with Mr. Huff and asked about acceleration options; he met with the TDD group from the south side, and City Administrator Blattner and he attended a presentation by a legal firm proposing a united effort to deal with the proposed AT&T franchise.

Mayor Wilson said Mr. Blattner and Director of Planning, Zoning and Economic Development Franz Krintz and he met with Mr. David Leezer of the St. Louis County Economic Development Council. He said Mr. Leezer is working to try to improve the business community, and he is trying to listen to determine how the County can best help the cities revitalize their business areas.

Mayor Wilson said he attended a staff meeting last Wednesday.

Mayor Wilson reported being on a BBC radio broadcast on Wednesday evening about cities named “Manchester” in the United States.

Mayor Wilson advised that on Thursday, he met with Director of Finance Michelle DePew and City Clerk Ruth Baker about health insurance. He said he would be meeting with Ms. DePew and Ms. Baker tomorrow.

Mayor Wilson said he would be at the Homecoming Committee meeting on Wednesday, and he would be following up with various activities launched during the past week, including talking with Mr. Huff, talking with representatives about the south side TDD, and talking with the lawsuit litigants.

Mayor Wilson talked about the upcoming Work Session. He said he is trying to do a better job of regulating the meetings, so there isn’t a crunch at the end. He said that because of a large agenda, they could either drop some things off the agenda, they could meet longer, or they could go ahead with the planned agenda and try to keep it on schedule.

Alderman Clement suggested the Board proceed with the agenda, and if at 9:30 a.m. there are still a few topics, he would recommend the Mayor ask the Board if they are willing to go on another half hour. Alderman Ottenad concurred. Mayor Wilson said they would go on with the schedule then.

7. REPORTS FROM THE CITY ADMINISTRATOR

a. List of Paid Bills (Warrant dates of August 4 - August 18, 2006)

There were no questions.

b. Next meeting on Tuesday, September 5

City Administrator Ed Blattner reminded everyone that the next meeting would be on Tuesday, September 5 because of the Labor Day holiday.

c. Old Meramec Station Road bridge is open

City Administrator Blattner discussed the process in replacing the new Old Meramec Station Road bridge which is now open.

d. Discussion regarding trash service on Fridays

City Administrator Blattner discussed a problem that occurred about two weeks ago concerning trash collection. He said that IESI has a new procedure in supervising their drivers, and he received a report this morning that there were only three missed pickups during the last week.

Alderman Clement asked for clarification of the changed plan.

Mr. Blattner said if there were missed pickups on all days, except Friday, that really wasn't a big problem because someone would be instructed to pick up the trash the next day. He said that several weeks ago, there was a problem with pickups in the Seven Oaks area on Friday. He said that now the supervisor will be checking on the pickups, and the new procedure seems to be successful. He said he had told Mr. Zykan if this persisted on Friday, as a worst situation, a Public Works Department employee would be sent out to drive the collection zone, and IESI would be charged for the City employee's overtime.

Alderman Clement said that missing a Friday night pickup is the worst case scenario, but he wanted to know about the process for the other days of the week.

Mr. Blattner said he believes IESI has asked the supervisor to drive through the area at the end of each day to verify the trash has been picked up.

Alderman Clement asked that it be verified that IESI supervisors are doing the same process Monday through Thursday as they have committed to do on Friday.

8. REPORTS FROM COMMITTEES

a. Planning and Zoning Commission

1. Minutes of the July 24, 2006 meeting

Alderman Clement said there were five cases at the last meeting. He said there were three site plan approvals, and there was a request from Mr. John Ransin of The Dent Company to use the space previously used by Roy's. Alderman Clement said the Planning and Zoning Commission recommended approval of this Special Use Permit. He said another case was the proposed Ordinance that the Planning and Zoning Commission has backed. He said there would be a Public Hearing regarding the denial of a Special Use Permit and what would be required to overturn the denial. He said the other case was a request by the Mayor and Mr. Krainz to take a look at the commercial C-1 and C-2 Special Use Permits, and to look at the amount of verbiage in the Ordinances, and he believes that the Planning and Zoning

Commission will be looking at possible ways to streamline the process, to redefine and make changes to the Ordinances.

Alderman Tullock asked about having the Special Use Permit transfer with the property and not with the owner, and Alderman Clement said they didn't get into that. He suggested Alderman Tullock give that information to Mr. Kraintz to distribute to the group doing the study.

B Historic Review Commission

Alderman Wandishin advised that the Historic Review Commission met before the Board of Aldermen meeting. He said the paperwork is all signed and ready to be submitted for the City to become a Certified Local Government.

Alderman Wandishin said members and others in the community have a collection of historical documents and artifacts to display, and they suggested having the documentation and artifacts displayed at City Hall at some time in the future. He said there are some grants out there to help with the money needs, but they will also need some funding from the Board, as well. He said the next meeting of the HRC would be on September 18 at 5:30 p.m.

9. ACTION ON OLD BILLS

a. BILL # 06-1774 – AN ORDINANCE PERTAINING TO LICENSE FEES
FOR BANKS

Alderman Tullock read Bill # 06-1774 for the second time, entitled: "AN ORDINANCE AMENDING SECTION 605.070(C) OF THE CODE OF ORDINANCES OF THE CITY OF MANCHESTER PERTAINING TO ANNUAL LICENSE FEES FOR BANKING OR CREDIT INSTITUTIONS WITHIN THE CITY OF MANCHESTER", by title only.

There was some discussion about linking these fees to the amount of square footage used. Also, Attorney Gunn advised that the City Clerk and he had some discussions about a general review of the business license fee structure, and at that time, there may be some consideration about using a square footage formula. He suggested that a flat fee may be appropriate for the short term, but there might be different consideration after a long term study has been undertaken.

Alderman Tullock made the motion that Bill # 06-1774 become Ordinance # 06-1696. The motion was seconded by Alderman Steinbrenner.

A poll of the Board showed:

Alderman Clement – aye
Alderman Steinbrenner – aye
Alderman Tullock – aye
Alderman Diehl – aye
Alderman Wandishin – aye
Alderman Ottenad – aye

Mayor Wilson announced the motion passed 6 – 0.
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b. BILL # 06-1775 – AN ORDINANCE ESTABLISHING AND LEVYING THE 2006 RATE OF TAXATION

Alderman Steinbrenner read Bill # 06-1775 for the second time, entitled: “AN ORDINANCE ESTABLISHING AND LEVYING THE RATE OF TAXATION UPON ALL REAL AND PERSONAL PROPERTY IN THE CITY OF MANCHESTER FOR CALENDAR YEAR 2006”, by title only.

Alderman Steinbrenner made the motion that Bill # 06-1775 become Ordinance # 06-1697. The motion was seconded by Alderman Clement.

A poll of the Board showed:

Alderman Steinbrenner – aye
Alderman Tullock – aye
Alderman Diehl – aye
Alderman Wandishin – aye
Alderman Ottenad – aye
Alderman Clement – aye

Mayor Wilson announced the motion passed 6 – 0.

c. BILL # 06-1776 –AN ORDINANCE REAFFIRMING PROCEDURE PROVIDING FOR DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST OF MUNICIPAL OFFICIALS

Alderman Ottenad read Bill # 06-1776 for the second time, entitled: “AN ORDINANCE RE-AFFIRMING THE PROVISIONS OF SECTIONS 120.010 THROUGH 120.070 OF THE CODE OF ORDINANCES OF THE CITY OF MANCHESTER, WHICH SECTIONS ESTABLISH A PROCEDURE TO PROVIDE FOR THE DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTEREST FOR CERTAIN MUNICIPAL OFFICIALS OF THE CITY OF MANCHESTER”, by title only.

Alderman Ottenad made the motion that Bill # 06-1776 become Ordinance # 06-1698. The motion was seconded by Alderman Clement.

A poll of the Board showed:

Alderman Tullock – aye
Alderman Diehl – aye
Alderman Wandishin – aye
Alderman Ottenad – aye
Alderman Clement – aye
Alderman Steinbrenner – aye

Mayor Wilson announced the motion passed 6 – 0.

- d. BILL # 06-1777 – AN ORDINANCE IMPLEMENTING A DEFEASANCE OF A PORTION OF OUTSTANDING GENERAL OBLIGATION BONDS

Alderman Diehl read Bill # 06-1777 for the second time, entitled: “AN ORDINANCE AUTHORIZING THE DEFEASANCE AND REDEMPTION PRIOR TO MATURITY OF A PORTION OF THE CITY’S OUTSTANDING GENERAL OBLIGATION BONDS, AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH”, by title only.

Alderman Diehl made the motion that Bill # 06-1777 become Ordinance # 06-1699. The motion was seconded by Alderman Clement.

A poll of the Board showed:

Alderman Diehl – aye
Alderman Wandishin – aye
Alderman Ottenad – aye
Alderman Clement – aye
Alderman Steinbrenner – aye
Alderman Tullock – aye

Mayor Wilson announced the motion passed 6 – 0.

- e. BILL # 06-1778 – AN ORDINANCE EXTENDING THE LETTER OF CREDIT FOR 740 SULPHUR SPRING ROAD

Alderman Wandishin read Bill # 06-1778 for the second time, entitled: “AN ORDINANCE AMENDING ORDINANCE NO. 04-1536, AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF MANCHESTER TO EXTEND AN ESCROW AGREEMENT ON BEHALF OF THE CITY WITH ANIMAL HEALTH FOUNDATION REGARDING THE GUARANTEEING OF CERTAIN IMPROVEMENTS TO THE PROPERTY AT 740 SULPHUR SPRING ROAD”, by title only.

Alderman Wandishin made the motion that Bill # 06-1778 become Ordinance # 06-1700. The motion was seconded by Alderman Tullock.

A poll of the Board showed:

Alderman Wandishin – aye
Alderman Ottenad – aye
Alderman Clement – aye
Alderman Steinbrenner – aye
Alderman Tullock – aye
Alderman Diehl – aye

Mayor Wilson announced the motion passed 6 – 0.

10. INTRODUCTION OF NEW BILLS

a. BILL EXTENDING ESCROW AGREEMENT FOR BOXWOOD SUBDIVISION

Alderman Ottenad introduced Bill # 06-1780, entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 05-1581 AND AUTHORIZING THE CITY ADMINISTRATOR OF THE CITY OF MANCHESTER TO EXTEND THE ESCROW AGREEMENT FOR BOXWOOD SUBDIVISION", by title only.

Alderman Ottenad stated she had some questions; she asked that Mr. Wes Byrne be asked to come to the podium to answer some questions. She referred to Mr. Byrne's letter where he asked for the six-month extension and a portion of the letter stated that there had been numerous work-related issues beyond his control that had delayed the completion of the Boxwood Manor project. She asked about the work-related issues.

Mr. Wes Byrne answered that it took a while to get a permit to build the necessary wall. He said there was an issue with the widening of Carman Road when St. Louis County Highway Department wanted the sidewalk moved closer to Carman Road; that took some time to be resolved.

Alderman Ottenad asked about the reason for the extension being five months instead of six months, and City Administrator Blattner explained that the Letter of Credit expired at the end of six months. He said he thought the five months would be adequate, because if the City waits until the 21st of March, there would only be two days left to rectify any potential problems. He said he would expect Mr. Byrne would be done in about 90 days.

Alderman Ottenad asked Mr. Byrne if he is going to be building more homes or if he is just grading the rest of the area, and Mr. Byrne said they would be building one more home. He said he wouldn't be doing anything at this particular time with the two lots in the front, but in about a month, he might change his mind.

Alderman Ottenad questioned the status of the retaining wall, and Mr. Byrne said it is completed.

Alderman Ottenad asked who from the City has been checking on the progress, and Mr. Blattner stated that Mr. Ruck and he have been checking on it, as well as Jason Callahan and the inspector from St. Louis County.

Alderman Clement said if there are two lots that are seeded over and graded, and if that is the way they remain over the winter, he wanted to know if that meets the terms of the Escrow Agreement.

City Administrator Ed Blattner responded that the Escrow Agreement applies to the improvement of the infrastructure; the plans really don't show houses. He said the plans just show streets and sidewalks. He said that if Mr. Byrne has no buyers for houses for the other lots, Mr. Byrne could have grass growing on them like any other piece of land, but if someone comes along and wants to build on them, that could be handled in a separate Escrow Account. He said he would like to be able to report to the Board next February that the project is completed, but if all the homes are not sold, there could be an additional Escrow Agreement put in place at a later time.

Alderman Clement discussed storm water runoff, and he said that problem is not going to go away. He said if the City terminates the Escrow Agreement in February, he could see once again some of the same issues they have seen from the beginning, such as the significant storm water failure and the mud and the silt. He said that even with grading and seeding, there would be two lots there that would pose risks to the surrounding neighbors.

Attorney Gunn said he believes Alderman Clement is concerned that in February if this developer does not build any more houses, the Escrow agreement currently in place would end and the money would be released to the developer. In that interim between the time the money is released until the home is built, there is continuing risk to adjoining property owners by virtue of this water runoff. He said it seems to him that what they need to be thinking about is that before the Escrow is released to the developer, there has to be some new agreement to protect the surrounding property owners in the event their lots are graded and seeded, but if there is a storm and the dirt is running off the property onto neighbor's property, there needs to be access to some funds to address that problem. He said perhaps it should not be considered that the Escrow Agreement will be terminating, but it would be modified or a new Escrow Agreement might be limited to storm water problems.

City Administrator Ed Blattner said that lots 5 and 6 are both graded toward the street. He said that the lots being built on now are the lots which would most likely cause any problems for the residents.

Attorney Gunn suggested a reminder on February 1, 2007 to see if another agreement should be entered into by February 21.

Alderman Ottenad asked for an update on Mr. Faulstich's property.

City Administrator Blattner said he got a drawing today from Mr. Faulstich's engineer, and he gave a copy to Mr. Byrne.

Alderman Steinbrenner said that Mr. Faulstich's property is behind the one brick home that is there, and she believes the weather has rectified the situation, not necessarily any improvements that have been made. She said now that the wood frame is up on another property, she is wondering if the people who back up to that property are experiencing any problems. She said she would imagine they are not experiencing problems because of the weather. She suggested waiting to see what happens before releasing anything.

No further action at this time.

b. BILL PERTAINING TO TAX ON TELECOMMUNICATIONS BUSINESSES

Alderman Steinbrenner introduced Bill # 06-1781, entitled: "AN ORDINANCE REPEALING ORDINANCE NO. 06-1670 AND, FURTHER, AMENDING SECTION 140.080(B) OF THE CODE OF ORDINANCES OF THE CITY OF MANCHESTER IMPOSING A TAX ON ALL TELECOMMUNICATIONS BUSINESSES OPERATING IN THE CITY OF MANCHESTER", by title only.

Alderman Clement asked what kind of revenue this modification would generate.

Director of Finance Michelle DePew said that a check had been received from MCI today and the check was based on the 2.6% which is the rate passed in April, and it was \$88 short of what would have been the 5% rate. She verified that MCI is a small telecommunications business in the City.

Attorney Gunn said that this Bill being introduced would indicate that the 5% rate would be retroactive to July 1, the effective date of the reduction to the 2.6% as required. He stated that if this Bill is approved by the Board, then the telecommunications companies that do business in Manchester will be notified, and they will be required to go back and pick up the 5% from July 1. He said that MCI obviously took it on their own to decide that the Supreme Court would never rule the Statute unconstitutional, and therefore they only collected 2.6% from their customers instead of the 5% they should have been collecting. He said he is advised that Cingular should be a much different scenario since they are the biggest for the area; their numbers should be of greater impact. He suggested that notification be made as soon as possible that the 5% is back in place.

Alderman Clement said this change is based on legal cause, and he asked if that would trigger another legal challenge.

Attorney Gunn explained that Ordinance # 06-1670 to go from 5% to 2.6%, and that states clearly that the reason that was done was because of House Bill 209; it wasn't done because the City wanted to do it on their own to reduce the rate from 5% to 2.6%; the City was being told that the rate had to be reduced. He said he would argue that when the Supreme Court held that Statute unconstitutional, the City is perfectly free to go back to 5% and for telecommunications companies to assess 5% as of July 1. He said the legal proceedings on that Bill are now concluded, but he can't tell what other Statutes might be working their way through some lobbyist's mind. He said that the reason the Statute was declared unconstitutional was because it protected one industry to the detriment of everybody else. It was declared to be a special bill, and special bills are prohibited by the Constitution.

Mayor Wilson said Mr. Blattner and he had discussed this issue with Mr. Fischesser of the St. Louis County Municipal League and he characterized this that the City is not taxing the consumer, the City is taxing the telecommunications firm, and they can choose to reflect that on the bills to the consumer or not. He said that how the telecommunications companies collect this revenue is really their affair; the City's relationship is with the telecommunications firm.

Attorney Gunn said the telecommunications companies might decide to absorb the costs; there is no requirement to pass the costs along to the consumer.

No further action at that time.

c. **BILL APPOINTING GILMORE AND BELL AS SPECIAL COUNSEL FOR THE
TRANSPORTATION DEVELOPMENT DISTRICT ON THE SOUTH SIDE OF
MANCHESTER ROAD**

Alderman Diehl introduced Bill #06-1782, entitled: "AN ORDINANCE AUTHORIZING THE ENGAGEMENT OF THE LAW FIRM OF GILMORE & BELL, P.C., TO ACT AS SPECIAL COUNSEL TO THE CITY IN CONNECTION WITH THE FORMATION OF A TRANSPORTATION DEVELOPMENT DISTRICT FOR PROPERTIES SOUTH OF MANCHESTER ROAD AND EAST OF HIGHWAY 141", by title only.

No further action at this time.

11. MISCELLANEOUS

a. Comments from the Public

There were none.

12. ADJOURNMENT

At 9:01 p.m., there being no further business, Alderman Tullock made the motion to adjourn. The motion was seconded by Alderman Clement and carried unanimously.

The meeting adjourned at 9:01 p.m.

Respectfully submitted,

Ruth E. Baker, City Clerk